

STATEMENT BY JANSON WU, ESQ.
BEFORE THE COMMITTEE ON COMMERCE IN SUPPORT OF HOUSE BILL 711-FN
AN ACT REQUIRING INSURANCE COVERAGE FOR THE COST OF HORMONE
TREATMENT DRUGS FOR TRANSSEXUALS

Honorable Chair and Members of the Committee:

I am grateful for the opportunity to testify in strong support of House Bill 711-FN, An Act Requiring Insurance Coverage for the Cost of Hormone Treatment Drugs for Transsexuals. This bill will help eliminate discrimination against transsexual and transgender people¹ in securing basic access to health care. I am a Staff Attorney at Gay & Lesbian Advocates & Defenders (“GLAD”), New England’s leading legal rights organization dedicated to ensuring legal equality for lesbians, gay men, bisexuals, transgender people, and those living with HIV or AIDS. A key focus of GLAD’s work has been addressing the pervasive discrimination faced by transgender people in housing, employment, public accommodations, access to benefits, education, and, in particular, health care. My goal today is to explain three main reasons why the legislature should guarantee coverage for hormone treatment drugs for New Hampshire’s transgender population:

- (1) There is no medically supported justification for excluding insurance coverage of hormone treatment drugs for transgender people.
- (2) Medical decisions should be made by doctors and patients based on sound medical science and should not be based on discrimination and prejudice.
- (3) House Bill 711-FN comports with existing New Hampshire law protecting its transgender population and is good public policy.

Transgender people throughout the United States and in New Hampshire face serious safety concerns² and discrimination every day in jobs, housing, schools, lending institutions, public accommodations and particularly in health care. At GLAD we hear stories all too often from transgender people who recount experiences of being denied treatment from doctors, for reasons as, “We don’t treat your kind.” Health insurers refusal to cover hormone treatment reflects this same pervasive discrimination against people on the basis of their gender identity. House Bill 711-FN will allow transgender people to do what most people with health insurance take for granted – access scientifically sound and medically necessary treatment without being subjected to prejudice and discrimination.

I. Gender Identity Disorder is a Legitimate Medical Condition That Requires Proper Medical Treatment.

A person’s gender identity refers to one’s self-identification as a man or a woman, as opposed to one’s anatomical sex at birth. Usually, one’s gender identity comports with one’s anatomical sex; that is, people born with the physical characteristics of males usually identify as

¹ The term “transgender” is an umbrella term to describe anyone who in some way(s) does not conform to gender stereotypes. This may include transsexual people (explained in more detail later) but also includes masculine appearing women and feminine appearing men.

² Transgender people face an epidemic of violence in the United States, most famously illustrated in the recent movie, “Boys Don’t Cry,” based on the true story of a transgender young man, Brandon Teena, who was brutally raped and assaulted by two friends of his girlfriend when they discovered that he was biologically female with a masculine gender identity. Rather than appropriately responding to his criminal complaint, local Nebraska police officers treated Brandon like a criminal and delayed in arresting his attackers. As a result, his attackers hunted down Brandon and murdered him.

men and those with physical characteristics of females identify as women. One's gender identity does not always align with one's anatomical sex, however. This medical condition is called Gender Identity Disorder ("GID"). Thus, for people with GID, gender identity and anatomical sex are discordant. Someone born male has a strong internal self-image and self-identification as a woman, and someone born female has a strong internal self-image and self-identification as a man.

GID is a serious medical condition recognized as such in both the International Classification of Diseases-10 (ICD-10) and the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) published by the American Psychiatric Association.³ Transsexualism is a severe form of GID, characterized by an intense discomfort with one's assigned sex and with one's primary and secondary sex characteristics. This conflict creates intense emotional pain and suffering. If left untreated, this condition can result in dysfunction, debilitating depression and, for some people without access to medical care and treatment, suicidality and death. To avoid these results, it is vitally important that people with GID seek out appropriate medical treatment, often in the form of hormone therapy to correct their physical sex to agree with their gender identity.

The World Professional Association For Transgender Health, Inc. ("WPATH") (formerly know as "The Harry Benjamin International Gender Dysphoria Association, Inc."), is the leading, international, professional organization devoted to the understanding and treatment of gender identity disorders and is actively involved in supporting, educating, and advocating on behalf of individuals diagnosed with gender identity disorder. The organization's membership includes licensed professionals in the disciplines of medicine, internal medicine, endocrinology, plastic and reconstructive surgery, urology, gynecology, psychiatry, nursing, psychology, neuropsychology, and other disciplines.⁴

WPATH has established internationally accepted Standards of Care ("SOC") for the treatment of people with GID.⁵ The SOC are designed to promote the health and welfare of persons with GID and are recognized within the medical community to be the standard of care for treating transgender people. The current WPATH SOC recommends a therapeutic approach, often referred to as "triadic therapy," that can consist of three elements: a real-life experience in the desire gender role, hormone therapy, and sex-reassignment surgery.

The SOC requires treating physicians to consider the individual needs of each patient and recognize that no single course of treatment is correct for every patient. For many, hormone therapy may be sufficient to treat GID, without further medical steps. Others will require a different therapeutic regime. The correct course of treatment for any given individual is best decided between the treating physician and the patient. However, such a therapeutic regimen, when prescribed or recommended by qualified practitioners, is "medically necessary."

Physicians treating persons with GID must be able to prescribe the medical treatments that are necessary for a patient to achieve genuine and lasting comfort with his or her gender, based on the person's individual needs and medical history. There is no single treatment that works in every case; however, the great majority of people with GID require hormone therapy to treat their GID. As such, New Hampshire's health insurance policy allow medical doctors and patients to choose the optimal medical treatment necessary.

3 See *Diagnostic and Statistical Manual of Mental Disorders*, America Psychiatric Association, (4th ed. 2000).

4 See generally <http://www.wpath.org/About.htm>.

5 See <http://www.wpath.org/soc.htm>.

II. Medical Decisions Regarding Treatment of Gender Identity Disorder Should Be Made By Doctors and Patients Based Upon Sound Medical Evidence and Should Not Be Based in Prejudice and Discrimination.

This bill does not mandate any additional coverage. It simply removes health insurance discrimination against transgender people and allows them to receive medically necessary treatment under their insurance plans, just like anyone else. As described already, hormone therapy is a legitimate medical treatment that should be available to doctors and patients as one possible course of treatment. Prohibiting categorical exclusions of coverage for hormone treatment for GID places the medical decision-making process back where it should be— between the doctor and patient.

Moreover, health care based upon science, not prejudice, is good public health policy. Delaying treatment of GID can often lead to further related health problems, such as depression and stress-related illnesses and substance abuse problems. These health risks due to untreated GID further endangers patients' health and impacts the health care system. As such, allowing doctors and patients the options of pursuing hormone therapy as treatment for GID constitutes good public policy.

III. House Bill 711-FN Comports With Existing New Hampshire Laws Protecting Transsexual People.

New Hampshire law already forbids discrimination against transsexual people in health care benefits. The Commission for Human Rights, pursuant to its authority to protect against disability discrimination in employment, has already stated that “[l]imiting the amount of health benefits or insurance coverage for a particular disability shall constitute discrimination in the terms, conditions or privileges of employment.”⁶ This protection includes transsexual people.⁷ As such, this bill will bring New Hampshire's insurance laws in line with its stated public policy to eliminate discrimination against its transsexual population in employment and health care.

IV. Conclusion

By passing this bill, New Hampshire will join other state leaders such as California and Washington in eliminating discrimination in health care against the transgender population. This bill is not only good for New Hampshire's transgender residents but also for New Hampshire as a whole, by allowing its transgender citizens to serve as functioning members of society and to contribute to New Hampshire and its economy. Thank you for your time in considering these comments in support of House Bill 711-FN.

6 N.H. Code Admin. R. Hum. 406.05.

7 N.H. Code Admin. R. Hum 401.03 (“Disability’ . . . includes transsexualism.”).